## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

UNITED STATES OF AMERICA	)	
	)	Case No. 2:04CR10028
	)	Case No. 2.04CK10026
v.	)	FINAL ORDER
	)	
KENNETH WAYNE FANNON,	)	By: James P. Jones
	)	United States District Judge
Defendant.	)	_

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** that the Motion to Dismiss (ECF No. 48) is GRANTED; the defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF No. 39) is DENIED; and the § 2255 proceeding is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: December 19, 2012

/s/ James P. Jones
United States District Judge